# UNITED STATES PATENT AND TRADEMARK OFFICE

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/963,776 | 09/26/2001 | Kevin Packingham | 1731 | 1811 |

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| 28005 | 7590 | 01/06/2006 | SKED, MATTHEW J |

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| 2655 | |

DATE MAILED: 01/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

| | Application No. | Applicant(s) |
|---|---|---|
| **Office Action Summary** | 09/963,776 | PACKINGHAM, KEVIN |
| | Examiner | Art Unit | |
| | Matthew J. Sked | 2655 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on <u>24 October 2005</u>.

2a)☒ This action is **FINAL.**     2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) <u>1-3,5-15,18-23 and 28-35</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) <u>28-35</u> is/are allowed.

6)☒ Claim(s) <u>1-3,5-15 and 18-23</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

# DETAILED ACTION

## *Response to Amendment*

1.    Applicant's arguments, in regards to claims 1 and 15, filed 10/24/05 have been fully considered but they are not persuasive.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning.  But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper.  See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In response to applicant's argument that Pugliese III is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention.  See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992).  In this case, both applications are directed towards user-command navigation systems.  In addition, both Cohen and Pugliese teach the user browsing throughout an application and saving these navigation points in a navigation history.  The mere fact that these inventions have further functionalities does not make them nonanalogous art.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Cohen teaches maintaining a usage history of the dialog states navigated by the user (col. 3, lines 45-48). Similarly, Pugliese teaches storing the session event in an events history and additionally, using these events to restore the system to the last active session in the event of a disconnection (paragraph 100). While neither Cohen nor Pugliese specifically suggest a motivation to include the additional feature of Pugliese with the system of Cohen, it is well known to one of ordinary skill in the art that if a disconnect should occur it would be advantageous to recover the last active workspace of a user so that current information is not loss which would cause the user distress. Hence, it would have been obvious to one of ordinary skill in the art at the time of invention to use the navigation history of Cohen to restore the command session as taught by Pugliese. The new rejection is given below, necessitated by the amendment.

2.      Applicant's arguments, in view of the amendment, filed 10/24/05, with respect to claim 28 have been fully considered and are persuasive. The rejection of claims 28-35 has been withdrawn.

3.      Claims 4, 16, 17 and 24-27 have been cancelled.

4.      It is noted that the applicant did not traverse the Official Notice taken in the

previous Office Action and therefore it is taken to be admitted prior art (see MPEP

2144.03).

### Claim Rejections - 35 USC § 103

5.      The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

6.      Claims 1-3, 5-9, 12, 15 and 18-22 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Cohen (U.S. Pat. 6,560,576) in view of Pugliese III et al. (U.S. Pat.

Pub. 2001/0044751).

As per claims 1, 5 and 15, Cohen teaches a voice command platform and

method comprising:

a user communication interface for communicating with users via a

telecommunications network (voice enabled application operating over a

telecommunications network, col. 2, lines 30-31 and Fig. 1);

a processor (Fig. 2, element 21);

an application-processing module executable by the processor voice command

applications, the voice command applications having navigation points (maintains a

history of dialog states so this would inherently have navigation points, col. 3, lines 45-

48), and the voice command applications defining user-prompts, allowed grammars and

application logic, wherein the processor processes voice command applications during

voice command sessions with users (voice pages are navigated by voice commands

each voice page would inherently have its own allowed prompts, grammars and logic,

col. 3, lines 11-25); and

a user profile store including a navigation history record respectively for each of a

plurality of users, the navigation history record for a given user identifying navigation

points of voice command applications that the processor has processed during at least

one voice command session with the given user (maintains a usage history for each

user for multiple sessions, col. 3, lines 45-48).

Cohen does not teach determining that a system disconnect occurred from the

previous voice command session, identifying, based on the navigation history log, a

given navigation point of a given voice command application that the platform was

executing at the time the system disconnect occurred, locating the given voice

command application from the given navigation point and executing the given voice

command application.

Pugliese teaches determining that a system disconnect occurred from the

previous voice command session, identifying, based on the navigation history log, a

given navigation point of a given voice command application that the platform was

executing at the time the system disconnect occurred, locating the given voice

command application from the given navigation point and executing the given voice

command application (accesses the last session id which would specify the application

and session status flag to determine if there was a disconnect in the user's profile to load the last session, paragraphs 222 and 224).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the system of Cohen to use the navigation history record for the given user to identify a voice command application that the processor was processing at the time the system disconnect occurred and loading and executing the voice command application as taught by Pugliese because it would avoid a loss of information and work the user had done, hence making the system more user-friendly.

7.    As per claim 2, Cohen teaches a navigation-recording logic executable by the processor to record in the navigation history record for the given user an indication of a navigation point of a voice command application that the processor has processed during a voice command session with the user (the usage history would inherently have a recording logic to save navigation points in the history, col. 3, lines 45-48).

8.    As per claim 3, Cohen teaches the navigation-recording logic is executable by the processor to record in the navigation history record for the given user each navigation point accessed during the voice command session with the user (history includes a history of dialog states hence it would inherently record all the states in order to make an accurate history, col. 3, lines 45-48).

9.    As per claim 6, Cohen does not teach the session-restore logic further executable by the processor to prompt the user for consent to restore the given voice command session.

Pugliese teaches querying the user if they wish to resume their previous

shopping application (paragraph 222).

It would have been obvious to one of ordinary skill in the art at the time of

invention to modify the system of Cohen to prompt the user for consent to restore the

given voice command session as taught by Pugliese because this would give the user

more control over the system hence making use more enjoyable for the user.

10.     As per claim 7, Cohen does not teach the user profile store includes an indication

for the given user indicating that the system disconnect occurred and the session-

restore logic is executable by the processor to determine, based on the indication, that

the system disconnect occurred.

Pugliese teaches the user profile store includes an indication for the given user

indicating that the system disconnect occurred and the session-restore logic is

executable by the processor to determine, based on the indication, that the system

disconnect occurred (last session id and session status flag are used to determine if

disconnect occurred in order to resume the last session, paragraph 224).

It would have been obvious to one of ordinary skill in the art at the time of

invention to modify the system of Cohen so that the user profile store includes an

indication for the given user indicating that the system disconnect occurred and the

session-restore logic is executable by the processor to determine, based on the

indication, that the system disconnect occurred as taught by Pugliese because it would

alert the system to know that a disconnect occurred previously so that it may reinstitute

the last session so the user does not lose any work.

11.    As per claim 8, Cohen does not teach using the navigation history record for the

given user to identify a voice command application that the processor was processing at

the time the system disconnect occurred and loading and executing the voice command

application.

Pugliese teaches using the navigation history record for the given user to identify

a voice command application (application may provide voice recognition, paragraph 8)

that the processor was processing at the time the system disconnect occurred

(paragraph 222) and loading and executing the voice command application (accesses

the last session id which would specify the application and session status flag in the

user's profile to load the last session, paragraph 224).

It would have been obvious to one of ordinary skill in the art at the time of

invention to modify the system of Cohen to use the navigation history record for the

given user to identify a voice command application that the processor was processing at

the time the system disconnect occurred and loading and executing the voice command

application as taught by Pugliese because it would load the user's last application only

when the user signs on hence preventing confusion for other users.

12.    As per claim 9, Cohen does not specifically teach or point out that the navigation

history lists navigation points in order of navigation.

Pugliese teaches the navigation history lists navigation points in order of

navigation (chronological history, paragraph 79).

It would have been obvious to one of ordinary skill in the art at the time of

invention to modify the system of Cohen so that the navigation history lists navigation

points in order of navigation as taught by Pugliese because it would make the

navigation points easy to navigate through, hence facilitating its use by the user.

13.     As per claims 12 and 20, Cohen teaches an expert-mode-transition logic

executable by the processor to automatically transition the given user to expert-mode

user status based on the navigation history record for the given user (expert help

prompts are played when a caller is experienced with the system hence analyzing the

user history, col. 5, lines 49-55).

14.     As per claim 18, Cohen does not teach restoring the previous voice command

session with the user at the initiation of a subsequent voice command session with the

user (after the break the system will automatically restore the previous session,

paragraph 98).

        Pugliese teaches restoring the application at the subsequent login (paragraph

222).

        It would have been obvious to one of ordinary skill in the art at the time of

invention to modify the system of Cohen to restore the previous voice command

application session at the initiation of a subsequent voice command session as taught

by Pugliese because this would allow the user to continue the application immediately

hence facilitating system recovery.

15.     As per claim 19, Cohen does not teach the session-restore logic further

executable by the processor to prompt the user for consent to restore the given voice

command session.

Pugliese teaches querying the user if they wish to resume their previous

shopping application (paragraph 222).

It would have been obvious to one of ordinary skill in the art at the time of

invention to modify the system of Cohen to prompt the user for consent to restore the

given voice command session as taught by Pugliese because this would give the user

more control over the system hence making use more enjoyable for the user.

16.    As per claim 21, Cohen teaches using the navigation history log to determine that

the user should be automatically transitioned to expert-mode user status comprises

using the navigation history log to determine that the user should be automatically

transitioned to expert-mode user status with respect to a given navigation point

(determines if an active help prompt that is based upon the current dialog state is

played a certain amount of times hence based on a current navigation point, Fig. 5,

element 502); and

automatically transitioning the user to expert-mode user status comprises

automatically transitioning the user to expert-mode user status with respect to the given

navigation point (plays the expert help prompt to the user, Fig. 5, element 505).

17.    As per claim 22, Cohen teaches using the navigation history log to determine that

the user should be automatically transitioned to expert-mode user status comprises:

determining, based on the navigation history log, that a given navigation point

has been accessed at least a threshold of times during at least one voice command

session with the user (determines if an active help prompt that is based upon the

current dialog state is played a certain amount of times hence based on a current

navigation point, Fig. 5, element 502); and

responsively determining that the user should be automatically transitioned to

expert-mode user status with respect to at least the given navigation point (plays the

expert help prompt to the user, Fig. 5, element 505).


18.    Claims 10, 11, 13, 14 and 23 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Cohen in view of Pugliese III and taken in further view of Applicant's

admitted prior art.

As per claim 10, Cohen does not teach the system is executable to restore the

given voice command session for a period of approximately 15 minutes after a system

disconnect of the given voice command session.

Pugliese teaches restoring a voice command application after a system

disconnect has occurred (paragraph 222), but does not specifically teach to be for a

period of 15 minutes.

Applicant's admitted prior art teaches that restoring an application for an

indefinite period after a break is notoriously well known in the art.

It would have been obvious to one of ordinary skill in the art at the time of

invention to modify the system of Cohen to restore the given voice command session,

as taught by Pugliese, for a period of approximately 15 minutes after a system

disconnect because it would allow the user's information to be recovered if a power

outage occurred.

19.     As per claim 11, Cohen and Pugliese do not teach that each of a plurality of the

voice command applications are VXML applications, and each of a plurality of

navigation points are Universal Resource Indicators.

Applicant's admitted prior art teaches that VXML applications that use Universal

Resource Indicators are common in the art.

It would have been obvious to one of ordinary skill in the art at the time of

invention to modify the system of Cohen and Pugliese so that each of a plurality of the

voice command applications are VXML applications, and each of a plurality of

navigation points are Universal Resource Indicators because it is an uncomplicated

method to implement voice command applications into a system.

20.     As per claim 13, Cohen teaches the expert-mode-transition logic is executable to

make a determination, based on the navigation history record for the given user, that

the given user has accessed a navigation point at least a threshold number of times

(determines if an active help prompt that is based upon the current dialog state is

played a certain amount of times hence based on a current navigation point, Fig. 5,

element 502) but does not specifically teach to set an expert-mode user flag in a profile

record for the user, in response to the determination.

Applicant's admitted prior art teaches that saving a user-level in memory is

common in the art.

It would have been obvious to one of ordinary skill in the art at the time of

invention to set an expert-mode user flag in a profile record for the user, in response to

the determination because it would save processing time by not having to calculate if

the user is an expert at the beginning of every session.

21.     As per claims 14 and 23, Cohen and Pugliese do not specifically teach the

telecommunications network comprises a wireless communications link.

Applicant's admitted prior art teaches that wireless communications links are

notoriously well known in the art.

It would have been obvious to one of ordinary skill in the art at the time of

invention to modify the system of Cohen and Pugliese so the telecommunications

network comprises a wireless communications link because it would allow system to

use to be easier and more enjoyable for the user.


## *Allowable Subject Matter*

22.     Claims 28-35 are allowed.

23.     The following is a statement of reasons for the indication of allowable subject

matter:  Claim 28 teaches the combination of a voice browser system that interfaces

between voice-tag applications and users, a method comprising:  maintaining a

navigation history that indicates a user's navigation through at least one voice-tag

application in a voice browser system; automatically setting the user mode to whether

the user is a expert-user or a standard user based on the navigation-history record,

automatically setting the user-mode to an expert-user in the event that the user is

globally designated as an expert user for all applications that the voice command

platform executes and interfacing with the user according to the user-mode record.

Cohen teaches a voice browser system arranged to execute voice-tag applications and to interface between voice tag applications and users, a method comprising:

maintaining a navigation-history record that indicates a user's navigation history through at least one of the voice-tag applications via the voice browser system (maintains a history of dialog states, col. 3, lines 45-48);

automatically setting the use-mode record to indicate that the user is an expert-user of the at least one voice-tag application, based on the navigation-history record (the use of novice or expert prompts is based upon the history hence indicating the user-level, col. 5, lines 49-55); and

when executing the at least one voice-tag application, interfacing with the user according to the user-mode record (plays the expert help prompt to the user, Fig. 5, element 505).

None of the prior art on record teaches automatically setting the use-mode to indicate that, for all applications, the user is an expert-user in the event that the user is globally designated as an expert user for all applications that the voice command platform executes.  It would not have been obvious to one of ordinary skill in the art at the time of invention to modify the system of Cohen to arrive at the Applicant's invention.

## *Conclusion*

24.     Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action.  Accordingly, **THIS ACTION IS MADE FINAL**.  See MPEP

§ 706.07(a).  Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action.  In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action.  In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Matthew J. Sked whose telephone number is (571) 272-

7627.  The examiner can normally be reached on Mon-Fri (8:00 am - 4:30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Wayne Young can be reached on 571-272-7582.  The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

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For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

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Business Center (EBC) at 866-217-9197 (toll-free).


MS
12/29/05


SUSAN MCFADDEN
PRIMARY EXAMINER